IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 1483 OF 2005

Yashwantrao Shyamlal Bhagat & Ors.
Vs.
State of Maharashtra & Ors.

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

CORAM : J. P. DEVADHAR AND
B.P. DHARMADHIKARI, JJ.
JULY 03, 2007.

Heard Shri Bade, learned counsel for the petitioners, Shri Deopujari, AGP for respondent No.1 and Ms. Gaiki, learned counsel holding for Shri Mishra, learned counsel for respondent No.2.

As it was pointed out to us that the challenge is covered by the judgment of the Division Bench of this Court in the case of Vitthal s/o Fakruji Madavi vs. Zilla Parishad, Chandrapur, reported at 2006 (2) Mh. L.J. 124, we have heard parties in an attempt to dispose of writ petition finally. Accordingly, Shri Bade, learned counsel has contended that Respondents No. 3 & 5, who do not hold graduate qualification have been given

promotion in violation of clause 5, (A) (B) & (C) of policy decision dated 14.11.1979. He contends that qualification held by them is not equivalent to required qualification. He further contends that in these circumstances, seniority and promotions given to them accordingly to those respondents is contrary to Government Policy and needs to be quashed and set aside.

Ms. Gaiki, Advocate holding for Shri Mishra, learned counsel for respondent No.2 contends that Government Resolution dated 14.11.1979 is not relevant resolution and a subsequent resolution has been issued by the Government in this respect on 11.8.1999. She further contends that seniority list is prepared by the Zilla Parishad in accordance with said resolution. She states that there are no pleadings to enable this Court to hold that respondents No. 3 & 5 are juniors to the petitioners.

Shri Deopujari, learned AGP appearing for respondent No.1 has adopted the same line of arguments. He further states that bare perusal of clauses 5 (A), (B) & (C) demonstrate that if a teacher with graduate

qualification is available, he/ she should be given preference for the purpose of his/ her accommodation on the post in pay-scale of Rs. 365-760. He contends that this is strictly not promotion.

After hearing parties, we find that Government Resolution dated 14.11.1979 has been issued only to remove difference in respect of providing teaching staff and other facilities to V to VII Standard attached to Middle Schools and to V to VII standard attached to Primary Schools. It is apparent that the post of graduate teacher, therefore, has been made available in Primary Schools also and candidates fulfilling those requirements are to be appointed against those pay scale. However, for that purpose, when the petitioners obtained their graduate qualification, when the respondents obtained their graduate qualification, whether said graduate qualification is in the subject which is being taught in the Primary School and the date on which they obtained training qualification are necessary facts. All these facts are not given in the petition. It is, therefore, difficult for us to consider the

controversy as raised.

However, if any seniority list is not prepared properly, the petitioners have always got right to make representation to their employer. If the petitioners prefer to make any such representation in this respect, their employer shall decide the same as expeditiously as possible and in any case within a period of three months from the date of its receipt.

Subject to these observations, writ petition is dismissed. No order as to costs.

JUDGE **JUDGE**

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